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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,470	04/15/2004	Charles Joseph Dellis	136845 (553-1143)	8120
45436	7590	04/04/2008		
DEAN D. SMALL THE SMALL PATENT LAW GROUP LLP 611 OLIVE STREET, SUITE 1611 ST. LOUIS, MO 63101			EXAMINER LAMPRECHT, JOEL	
			ART UNIT 3737	PAPER NUMBER
			MAIL DATE 04/04/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/825,470

Applicant(s)

DELLIS, CHARLES JOSEPH

Examiner

JOEL M. LAMPRECHT

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/04/08 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, the controlling of an amount of "time" for a post-processing operation based on the scanning speed and adjusting the post-processing time based on the monitoring to avoid slowing of the scanning speed is indefinite. The "amount of time" for post-processing and balance between the scanning speed and post-processing load of the system is indefinite as the specification controls the "access to data" which is then post-processed at remote locations. There is no reference to the "amount of time" or controlling the "allocated time" aside from allowing access to the data itself. A suggested correction would define the post-processing operations not in time but in the amount of data transferred or prevented to be

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transferred to the plurality of locations in order to distinctly point out that "time" relates to the amount of data being transferred (See the discussion on high traffic times from the instant specification) and not to the amount of time the processor or system is devoting to the post-processing of an image itself. Additionally, the "scanning speed" is indefinite as it could easily be interpreted as a control measure based on the MRI/CT/Ultrasound or other imaging system as these systems use "scanning speed" to often designate the speed at which the camera or other system is acquiring data, and not the speed or "lag" caused by the processor performing simultaneous operations at once. For the purpose of expediting prosecution, the Examiner has interpreted the claim to designate "scanning speed" as the normal processing and acquisition load on the processor of the medical imaging system while scanning, and the "amount of time" for post-processing to define the controlling of data either being processed by the system or transferred from the system to a remote processing location.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogino et al (7,082,440 B2) in view of Schweikard et al (US 6,501,981). Ogino et al distinctly point out and teach the use of a method and system for processing medical

images through configuration of a system and control of access from multiple locations in order to facilitate post-processing operations to assist in diagnosis and treatment of patients (Col 10 Line 40-Col 11 Line 65). The post-processing allowing for specific types of post-processing operations to be performed per-user based on variable permissions via a WAN/LAN/VPN system (Col 10 Line 40-50), including real-time access to uploading and post-processing of medical images, storing recent images on the medical imaging system for quick access (Col 12 Line 66-Col 13 Line 20), retrieval of post-processed data by the local system for display on the local user interface for diagnosis or evaluation, post-processing operations being controlled by customizable settings (including an automated request and delay of time for processing) for different image types (Col 13 Line 15-45, Col 9 Line 10-34), and finally allowing different end-users to perform post-processing, acquisition, registration, or retrieval based on permissions within the server (Col 11 Line 4 – Col 13 Line 68). The server itself uses multiple processing units to alleviate the processing load on the local imaging systems (Figure 1-2), which then are only required to upload compressed images (Col 12 Line 65- Col 13 Line15) and are not required to perform any of the post-processing operations on their local processor. This procedure is cited as "reducing processing load" (Col 2 Line 40-65) and allowing for continued acquisition of data (Col 8 Line 13-24, Seventh embodiment (Col 21-Col 23)).The system also performs billing and fee structures, and bases securities on individual end-user stations and settings (Col 12 Line 10-28), and provides the capability to perform image processing at a specific time

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after completion of operations of scanning for a day via a request system (Col 19 Line 64- Col 20 Line 62).

Regarding claims 1, 8, 10, 15, 24, 30, 33, 34 and 39 Ogino et al do not focus on the local processing (one of the plurality of locations being discussed in the independent claims) of images by the system or the remote control of the imaging system by a user at a different location than the system itself, nor is there a specific reference to ending the scanning for one day and starting the next day. Attention is then directed to the secondary reference by Schweikard et al, which describes a method for remote controlling an imaging system during a radiosurgical procedure. Their particular disclosure provides remote methods for remote motion-control of an imaging system, as well as compensation for motion artifacts via an adaptable marker-based motion detection system (Col 10 Line 55- Col 11 Line 55). Finally, they disclose image processing and display at the system-end (Figure 4, Col 4 Line 64- Col 6 Line 55) It would have been obvious to one having ordinary skill in the art at the time of the invention to have utilized the radiosurgery control methods disclosed by Schweikard et al with the post-surgery assessment and remote access data sharing methods of Ogino et al for the purpose of providing remote access to an imaging system as well as a streamlined platform for reducing post-processing loads on the local system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOEL M. LAMPRECHT whose telephone number is

(571)272-3250. The examiner can normally be reached on Monday-Friday 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571)272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ruth S. Smith/
Primary Examiner, Art Unit 3737

JML